

Article - Health - General

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§5-509.

(a) (1) Any individual who is 18 years of age or older may decide the disposition of the individual's own body after that individual's death without the predeath or post-death consent of another person by:

(i) Executing a document that expresses the individual's wishes regarding disposition of the body, including a document designating a person to act as authorizing agent; or

(ii) Entering into a pre-need contract.

(2) The person designated on a United States Department of Defense Record of Emergency Data (DD Form 93), or its successor form, as the person authorized to direct disposition may serve as the authorizing agent for a decedent, if the decedent:

(i) Died while serving in the United States armed forces; and

(ii) Executed the United States Department of Defense Record of Emergency Data (DD Form 93), or its successor form.

(3) An authorizing agent is bound by any valid document executed under this subsection in making decisions regarding the final disposition of the decedent's body.

(b) In order to be valid, any document executed under subsection (a) of this section must be written and signed by the individual in the presence of a witness, who, in turn, shall sign the document in the presence of the individual.

(c) The following persons, in the order of priority stated, have the right to serve as the authorizing agent for a decedent:

(1) If the decedent executed a valid document under subsection (a) of this section:

(i) The person designated on the United States Department of Defense Record of Emergency Data (DD Form 93), or its successor form, as the person authorized to direct disposition; or

(ii) The person designated as an authorizing agent by a decedent in the valid document executed under subsection (a)(1) of this section; or

(2) Unless a person has knowledge that contrary directions have been given by the decedent, if a decedent has not executed a document under subsection (a) of this section:

(i) The surviving spouse or domestic partner of the decedent;

(ii) An adult child of the decedent;

(iii) A parent of the decedent;

(iv) An adult brother or sister of the decedent;

(v) An adult grandchild of the decedent;

(vi) A person acting as a representative of the decedent under a signed authorization of the decedent that does not meet the requirements of subsection (b) of this section;

(vii) The guardian of the person of the decedent at the time of the decedent's death, if one has been appointed; or

(viii) In the absence of any person under items (i) through (vii) of this item, any other person willing to assume the responsibility to act as the authorizing agent, including the personal representative of the decedent's estate, after attesting in writing that a good faith effort has been made to no avail to contact the individuals under items (i) through (vii) of this item.

(d) (1) Subject to paragraph (2) of this subsection, if a decedent has more than one survivor under subsection (c)(2)(i) through (v) of this section, any adult child, parent, adult brother or sister, or adult grandchild of the decedent who confirms in writing to a practitioner that all of the other members of the same class have been notified may serve as the authorizing agent for purposes of § 5–502 of this subtitle unless the practitioner receives a written objection to the cremation from another member of that class within 24 hours.

(2) If a decedent has more than one survivor under subsection (c)(2)(i) through (v) of this section, the majority of a class may serve as the authorizing agent.

(e) In the case of an individual whose final disposition is the responsibility of the State or any of its instrumentalities, a public administrator, medical examiner,

coroner, State-appointed guardian, or any other public official charged with arranging the final disposition of the decedent may serve as the authorizing agent.

(f) In the case of an individual who has donated the individual's body to medical science or whose death occurred in a nursing home or other private institution, a representative of the institution to which the body was donated or in which the decedent died shall authorize cremation for purposes of § 5-502 of this subtitle if the decedent executed cremating authorization forms and the institution is charged with making arrangements for the final disposition of the body.

(g) (1) This subsection may not be construed to require a licensed mortician, licensed funeral director, or licensed funeral establishment to make any notification regarding the right of disposition.

(2) A person shall forfeit the right of final disposition of the body of a decedent under subsection (c) of this section and the right shall pass to the next qualifying person, if the person:

(i) Does not exercise the right of disposition within 7 days after notification by a funeral establishment of the death of the decedent, or within 10 days after the decedent's death, whichever is earlier;

(ii) Subject to paragraph (3) of this subsection, is charged with first- or second-degree murder or voluntary manslaughter in connection with the decedent's death and the charges are known to the funeral director; or

(iii) Is the subject of an active interim, temporary, or final protective order and the decedent was a person eligible for relief, as defined under § 4-501 of the Family Law Article, under the order and a copy of the order is presented to the funeral director.

(3) A person whose right of disposition was forfeited under paragraph (2)(ii) of this subsection shall have the right restored, if:

(i) The criminal charges are dismissed; or

(ii) The person is acquitted of the criminal charges.

(4) A person may waive the right of final disposition of the body of a decedent under subsection (c) of this section and the right shall pass to the next qualifying person, if:

(i) The person waives the right of disposition in writing; and

(ii) The writing is submitted to the practitioner or funeral establishment.

(5) A practitioner or funeral establishment may not be held civilly liable for acting in reliance on this subsection.

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